

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: PLCP, LLLP aka Pine Lake Corn Processors, LP Hardin County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2013-AQ- 01
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TO: PLCP, LLLC
Edward P. Kryfka III
Production Manager
33371 170th Street
Steamboat Rock, IA 50672

PLCP, LLLC
Rick Vaughan
Registered Agent
115 Oak Street
Hubbard, Iowa 50122

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and PLCP, LLLP aka Pine Lake Corn Processors, LP (Pine Lake) for the purpose of resolving air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Bryan Bunton
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515-281-0363

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515-281-6243

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Pine Lake is an ethanol production facility with a capacity of 30 million gallons of ethanol per year in Steamboat Rock, Hardin County, Iowa. Sources of emissions to the outside atmosphere at the facility include hammermills, grain storage bins, fermenters, cooling towers, dryers, storage tanks, and load-outs.

2. Pine Lake has failed to comply with the conditions of its air quality construction permits, and Pine Lake has failed to timely obtain air quality construction permits prior to the installation and operation of emission points at its facility.

3. **Pine Lake has failed to comply with the conditions its air quality construction permits.** On May 3, 2010, DNR issued a Notice of Violation (NOV) letter to Pine Lake for failing to timely conduct required air quality performance testing for Volatile Organic Compounds (VOC), Total Hazardous Air Pollutants (HAP), and Single HAP for Emission Points (EP) S40 (DDGS Dryer #1) and S41 (DDGS Cooler #1). Air Quality Construction Permit Nos. 03-A-624-S5 and 03-A-625-S4 were issued to Pine Lake on August 17, 2010, for emission points S40 and S41. Condition 12 of both permits requires that Pine Lake conduct performance tests for VOC, Total HAP, and Single HAP at least once every 36 months with a minimum of six months between testing. Initial testing was completed in September of 2005; however, secondary testing was not conducted until November of 2010.

4. Pine Lake also has failed to comply with Conditions 12 (*Compliance Demonstrations and Performance Testing*) and 14 (*Operating Limits*) of Air Quality Construction Permit No. 06-A-832-S2, which was issued to Pine Lake on August 17, 2010, for FS003 (Fugitive Dust from Truck Traffic). Condition 12 of this permit requires that silt load performance testing be completed on a quarterly basis. Condition 14 requires that dust suppressants be applied at least once per month. During a DNR Field Office No. 2 inspection conducted on May 31, 2012, it was

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determined that Pine Lake did not complete a silt-load test during the 4th quarter of 2011 or the 1st quarter of 2012, and that dust suppressants were applied only once during 2011. DNR Field Office No. 2 issued a June 6, 2012, NOV letter to Pine Lake for these violations.

5. **Pine Lake has failed to timely obtain air quality construction permits prior to the installation and operation of emission points at its facility.** 567 Iowa Administrative Code (IAC) 22.1(1) requires that, unless exempt, no equipment or control equipment be constructed without first obtaining a construction permit. On May 7, 2010, DNR issued a NOV letter to Pine Lake for installing and operating Centrifuge #1 and Centrifuge #2 prior to obtaining a construction permit. The installation and operation of Centrifuge #1 and #2 commenced in 2004, although permits were not obtained until 2010.

6. **Further, Pine Lake has failed to obtain supplemental air quality construction permits when necessary.** 567 IAC 22.3(3)(e) requires that a supplemental permit be obtained if changes are made by the permittee to the final plans and specifications following permit issuance.

7. Several emission points (EP S1, EP S10, EP S21, EP S80, and EP S90) were identified during a September 7, 2005, inspection report as not being constructed according to permitted specifications. A September 14, 2005, NOV letter was issued for these violations. Additional emission points (EP S20 and EP S40) were identified as not being constructed according to permitted specifications when the facility submitted permit applications in 2006. An August 21, 2006, NOV letter was issued for these violations. Later, a July 1, 2008, inspection report stated that the current construction permits still did not reflect the conditions at the plant. At that time, Pine Lake was required to re-permit all existing equipment at the facility and to rescind all current permits.

8. Pine Lake planned to expand production at the facility, and permit applications were submitted in April 2009, contemplating those changes. However, the expansion did not occur, and the resulting permits, issued on August 17, 2010, again did not reflect conditions at the facility. As a result, when the facility was inspected on May 31, 2012, the emission points listed in Table 1, below, still are not in compliance with the characteristics described in their respective construction permits. A NOV letter was issued to Pine Lake on June 6, 2012, detailing the findings made during the May 31, 2012, inspection.

9. In addition to the emission points listed in Table 1, DNR determined during the May 31, 2012, inspection that Pine Lake was operating EP S40 (DDGS Dryer) without a valid permit. Air Quality Construction Permit No. 03-A-632-S3 permitted the installation of a Cellencor Dryer when it was issued on August 17, 2010. However the permit became void when construction of the proposed project,

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in this case the Cellencor Dryer, was not initiated within eighteen months after the permit issuance date.

10. Pine Lake submitted permits applications on July 26, 2012. Permits were issued on September 27, 2012.

Table 1

Original Permit Application					As Constructed	
EP	Permit #	Description	Discharge	Diameter	Discharge	Diameter
S03	06-A-812-S1	Storage Bin #1	Vertical Unobstructed	15x15	Downward	15x15
S04	06-A-813-S1	Storage Bin #2	Vertical Unobstructed	15x15	Downward	15x15
S37	10-A-161	Centrifuge #1	Vertical Unobstructed	6	Horizontal	6
S38	10-A-162	Centrifuge #2	Vertical Unobstructed	6	Horizontal	6
TK01	03-A-629-S3	Tank	Vertical Unobstructed	48	Downward	Unknown
TK02	03-A-630-S3	Tank	Vertical Unobstructed	48	Downward	Unknown
TK03	03-A-631-S3	Tank	Vertical Unobstructed	48	Downward	Unknown
TK04	03-A-632-S3	Tank	Vertical Unobstructed	48	Downward	Unknown

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides for the Environmental Protection Commission (Commission) to establish rules governing the quality of air and emission standards. The Commission has adopted 567 (IAC) chapters 20-35 relating to air quality.

2. 567 IAC 22.1(1) provides that unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph "c" of this subrule, no person shall construct install, reconstruct or alter any equipment, control equipment, or anaerobic lagoon without first obtaining a construction permit, or conditional permit, or permit pursuant to 22.8 (455B), or permits required pursuant to 22.4(455B) and 22.5(455B) as required in this subrule. Pine Lake installed and operated equipment prior to obtaining a construction permit or when the construction permit was void.

3. 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing, and that such conditions may include compliance testing requirements. As set forth in this administrative

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consent order, Pine Lake failed to comply with the requirements of air quality construction permits on numerous occasions.

V. ORDER

THEREFORE, DNR orders and Pine Lake agrees to the following:

1. Pine Lake shall pay a penalty of \$10,000.00 to the DNR within 30 days of the date the Director signs this administrative consent order.

VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$10,000.00 administrative penalty. The administrative penalty assessed by this consent order is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” Based on information provided by Pine Lake, the cost of monthly dust suppression is \$506.00 per application. In addition Pine Lake saved time and money by installing and operating Centrifuge #1 and #2 prior to applying and receiving permits for those emission points, and by failing to conduct permitting activities to reflect the conditions at its facility. Using EPA’s BEN model, an estimated cost savings through avoided costs of approximately \$6,775.00 was realized. Therefore, this amount is assessed for this factor.

Gravity of the Violation – The failure of Pine Lake to timely obtain construction permits and to obtain supplemental permits prior to construction or modification prevented the DNR from evaluating the potential emissions and ambient air aspects

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from the modified sources. In addition, modification or construction of emission sources prior to obtaining the required permits threatens the integrity of the permitting and air pollution control programs. Failing to timely obtain permits for Centrifuge #1 and #2, and failing to obtain supplemental permits for the sources listed in Table 1 and for EP S40 also resulted in violation of the construction permits for these sources.

The integrity of the air permitting program also is threatened when performance testing is not completed in a timely manner, which is a violation of Condition 12 of the construction permits for EP S40 and EP S41. This also is the case when the facility does not complete silt-load testing or apply dust suppressants at the appropriate frequency for the facility's haul roads. For the foregoing reasons, \$2,225.00 is assessed for this factor.

Culpability – Pine Lake has been in operation since 2005 and has been inspected by Field Office No. 2 approximately every other year since that time. DNR has informed the facility in NOV letters issued on three separate occasions that the emission point characteristics at its facility do not match the permitted descriptions. Pine Lake therefore displays negligence in this issue. For these reasons, \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS


This administrative consent order is entered into knowingly and with the consent of Pine Lake. For that reason, Pine Lake waives its rights to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all

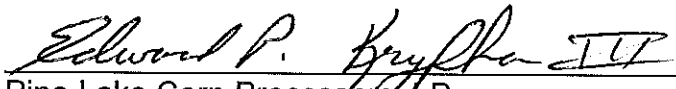
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requirements pertaining to the specific violations described in Section "IV.
Conclusions of Law" of this administrative consent order.



Chuck Gipp, DIRECTOR
Iowa Department of Natural Resources

Dated this 21st day of
February, 2013.



Pine Lake Corn Processors, LP

Dated this 30th day of
January, 2013.

Facility No. 42-08-001; Anne Preziosi; VII.A.2